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STATE OF ALABAMA

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91-00049

Honorable Steve R. Graham
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Prisons and Prisoners - Private
Work

Code of Alabama 1975,
§ 14-5-11, as it presently
reads, does not create criminal
liability when a chief deputy
sheriff employs an inmate
housed in the county jail to do
work at the chief deputy's
private residence unless the
chief deputy is a parent, child
or sibling of a person named in
§ 14-5-11. However, such
employment of inmates by deputy
sheriffs is against public
policy and raises a question of
personal gain which may be in
violation of the Ethics Law.

Dear Mr. Graham:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Does Code of Alabama 1975, § 14-5-11
prohibit a chief deputy sheriff of a county
from employing an inmate housed in the
county jail to do work at the chief deputy's
private residence?

FACTS AND ANALYSIS

Code of Alabama 1975, § 14-5-11 provides:

"(a) No state or county inmate shall be employed by or do any work for:

"(1) Any district attorney, any judge, or any sheriff; or

"(2) Any parent, sibling, or child of any district attorney, any judge, or any sheriff; or

"(3) Any business one-third or more of which is owned by any district attorney, any judge, or any sheriff, or any parent, sibling, or child of any district attorney, any judge, or any sheriff.

"(b) Nothing in this section shall be construed to prevent any state or county inmate from being employed by or doing work for the state or any political subdivision of the state or for any governmental agency or entity.

"(c) Any person who violates this section shall be guilty of a Class A misdemeanor and shall be punished as provided by law."

This provision prohibits the employment of a state or county inmate to do work by a district attorney, judge or sheriff or the parent, sibling or child of a district attorney, judge or sheriff, or a business, one third or more, which is owned by a district attorney, judge or sheriff or the parent, sibling or child thereof. A violation of this statute is punishable as a Class A misdemeanor.

Section 14-5-11 is a penal statute. - Penal statutes are to reach no further than their words, and no person is to be made subject to a penal statute by implication. Clements v. State, 370 So.2d 723 (Ala. 1979). Thus, § 14-5-11 applies only to those persons named therein. Because a chief deputy sheriff is not named in § 14-5-11, its provisions do not apply to persons

holding that position unless such persons are a parent, child or sibling of a district attorney, judge or sheriff.

The Attorney General is strongly against the employment of inmates in any manner by public officials and certainly does not condone the employment of inmates by deputy sheriffs. However, the statute, as enacted by the Legislature and codified at § 14-5-11, does not create criminal liability in the employment of inmates by deputy sheriffs. It is the responsibility of the Legislature to enact an amended statute prohibiting such employment.

While § 14-5-11 does not create criminal liability in the employment of inmates by a deputy sheriff at his private residence, such employment of inmates is certainly against public policy and raises a question of personal gain which may be a violation of the Ethics Law. Therefore, a chief deputy sheriff should not act against public policy by employing inmates housed at the county jail to work at his residence.

Any questions concerning the Ethics Law should be submitted to the State Ethics Commission.

CONCLUSION

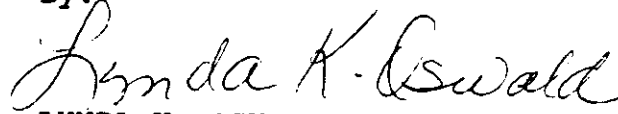
Code of Alabama 1975, § 14-5-11, as it presently reads, does not create criminal liability when a chief deputy sheriff employs an inmate housed in the county jail to do work at the chief deputy's private residence unless the chief deputy is a parent, child or sibling of a person named in § 14-5-11. However, such employment of inmates by deputy sheriffs is against public policy and raises a question of personal gain which may be a violation of the Ethics Law.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General

By:


LYNDA K. OSWALD
Assistant Attorney General

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